



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Ahtna, Inc.--Request for Reconsideration  
**File:** B-235761.5  
**Date:** February 28, 1990

Robert M. Goldberg, Esq., Robert M. Goldberg & Associates, P.C., for the protester.  
Barbara Timmerman, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Request for reconsideration of decision affirming prior dismissal on timeliness grounds and dismissing subsequent protest on grounds that protester was not an interested party is denied because significant issue exception raised in reconsideration applies only to timeliness requirements and is not an exception to the requirement that the protester be an interested party within the meaning of the General Accounting Office's Bid Protest Regulations.

### DECISION

Ahtna, Inc., requests reconsideration of our decision Ahtna, Inc., B-235761.3; B-235761.4, Dec. 1, 1989, 89-2 CPD ¶ 507, affirming our prior dismissal of that protest and dismissing a subsequent protest against the award of a contract to Slana Energy, Inc., under request for proposals (RFP) No. F65517-87-R0001, issued by the Department of the Air Force for electrical power for the Alaska portion of the Over-the-Horizon Backscatter Radar System, a part of the United States early warning radar system.

We deny the request for reconsideration.

The RFP provided for the award of a requirements contract for a 1-year test period plus a 20-year operation period. Award was to be made to the offeror with the lowest evaluated life-cycle cost whose proposal was also acceptable

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in the technical and management areas, provided the offeror's cost was lower than the cost of a government constructed and operated plant.

On the closing date, the Air Force received seven proposals. Discussions were conducted with all offerors and all seven submitted best and final offers. The agency rejected one proposal as technically unacceptable and another proposal was withdrawn. The remaining five proposals were determined to be acceptable in the technical and management areas. After analyzing the life-cycle cost of each proposal, the agency made award to Slana based on its evaluated life-cycle contract cost of \$52,628,205.

In its initial protest to our Office filed on July 14, 1989, Ahtna maintained that no other offeror was responsible. Ahtna also argued that the agency had incorrectly calculated its life-cycle cost and that Slana would not be able to meet the RFP's requirement concerning reliability.

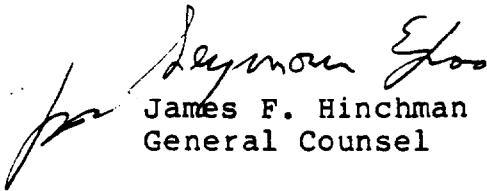
We dismissed that protest as untimely because Ahtna's agency-level protest was filed more than 10 working days after it knew or should have known the basis of its protest. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1989). Ahtna's agency-level protest was filed on June 20, more than 10 working days after the June 2 debriefing where it learned the basis for its protest. We therefore did not consider its subsequent protest to our Office. Ahtna then requested reconsideration of that dismissal and filed a second protest challenging the Air Force's determination that Slana's proposal was acceptable from a technical and financial standpoint and that Slana was a responsible offeror. We affirmed the dismissal of the initial protest and also dismissed Ahtna's second protest because we determined that Ahtna was not an interested party eligible to maintain a protest against the award. The record showed that Ahtna was the fifth low acceptable offeror under the RFP which provided for award to the low, acceptable offeror. Since Ahtna would not have been in line for award even if its protest were sustained it was not an interested party under our Regulations. See 4 C.F.R. §§ 21.0(a), 21.1(a).

In this request for reconsideration Ahtna essentially reiterates its argument that Slana is not a responsible offeror and questions our determination not to consider its protest under the significant issue exception to our timeliness requirements. See 4 C.F.R. § 21.2(b).

We found Ahtna's initial protest untimely and declined to consider it under the significant issue exception in the firm's first request for reconsideration. We also found that Ahtna was not an interested party to protest the award.

Even if we were to agree with the protester--which we do not--that it has raised a significant issue, we would not consider the protest because the protester is not an interested party. Since the significant issue exception only applies to our timeliness rules, Metro Recycling Co.--Request for Reconsideration, B-233816.2, Mar. 2, 1989, 89-1 CPD ¶ 225, and we do not consider protests from other than interested parties, even if we were to conclude that the untimeliness of the protest should be waived under that exception, we would not under any circumstances consider it.

The request for reconsideration is denied.

  
James F. Hinchman  
General Counsel